

**MINUTES**  
**CLAY COUNTY PLANNING COMMISSION**  
**7:00 P.M., TUESDAY, SEPTEMBER 19, 2017**  
**MEETING ROOM B - THIRD FLOOR COURTHOUSE**

**Members Present:** Amos Baer, Mark Klevgaard, Tom Jensen, Jenny Mongeau, Joel Paulsen, Curt Stubstad, Bill Davis, Andrea Koczur, Dan Langseth, Randy Schellack

**Members Absent:** Tim Brendemuhl

**Others Present:** Tim Magnusson, Lynne Spaeth, Jenny Samarzja, Greg Anderson, Amanda Jelinek, Tim Thompson, Dan Plambeck, Mike Wagner, Rich Opatril, Keith Langerud, Bill Gottenborg, Cheryl Gottenborg, Todd Thompson (via telephone conferencing)

**APPROVAL OF AGENDA**

**On motion by Andrea Koczur, seconded by Curt Stubstad, and unanimously carried, the Planning Commission approved the Agenda with the addition of the item, “Discussion on Baker Property Issues.”**

**APPROVAL OF MINUTES**

**On motion by Dan Langseth, seconded by Randy Schellack, and unanimously carried, the Planning Commission approved the August 15, 2017 minutes.**

**CITIZENS TO BE HEARD**

**ROGER AND CHERYL GOTTENBORG - REQUEST FOR INTERIM USE**

The applicants are seeking approval of an Interim Use Permit to allow the establishment of an event center/wedding venue on their property. The property affected is a 10.5-acre parcel located in the NW Quarter, SW Quarter, Section 13, T140N, R45W (Cromwell Twp.), in the Agricultural General (AG) zoning district.

**On motion by Randy Schellack, seconded by Joel Paulsen, and unanimously carried, the Planning Commission opened the public hearing.**

Tim Magnusson, Planning Director, presented photographs of the applicant’s residence, County Road 33 and the City of Hawley. He highlighted the location of the surrounding residences and the buildings associated with the venue, including the residence, a barn and granary. The applicants have a long driveway and parking would be off County Road 33. The space would allow for 150 vehicles and would provide handicap spots. The sketch plan of the 66’ x 36’ barn was provided. The plan is to have handicap accessible restrooms in the granary.

Magnusson apprised the Commission that as of July 1<sup>st</sup>, the Department of Labor and Industry took over the Building Code Administration for venues holding 200+ occupants, or venues utilizing second floor space of a building. There are thresholds and building codes to be met for electrical remodeling and plumbing and the Department will provide inspections. The applicant

will need to work with a licensed design professional of the State of Minnesota to make the determination of occupancy of the facility. Magnusson provided the commission with a Department of Labor and Industry fact sheet.

Magnusson has conversed with the Township and they have no issue with the proposal. There was a telephone call from an individual concerned with the noise possibility.

The proposed area is somewhat isolated. The trees to the north will help buffer the noise. The traffic will increase but the road is paved, eliminating the dust problem. Magnusson stated the requested hours are from 11 a.m. until midnight, operating from mid-May through October. He recommended that music be played indoors and outdoors during ceremonies. The applicants need to provide the maximum occupancy to the Planning office before obtaining their permit.

The applicants were present for questions. Bill and Cheryl Gottenborg approached the Commission. Cheryl Gottenborg explained that she had contacted the Department of Labor and was instructed to contact an architect to examine the building to determine the maximum occupancy number. She added that she has talked to four architects but none of them have evaluated the property. Cheryl distributed pictures of the barn and granary. In addition, she has talked to her neighbors to the north of their residence, and the neighbors voiced no concerns. The applicants were asked if the conditions were acceptable, specifically the condition referring to indoor/outdoor amplified music and temporary signage, and they approved. Cheryl talked with Brian Giere from the Township Board and he discussed the proposal with the other officers at the Cromwell Township meeting and there were no issues or concerns

Bill Gottenborg addressed the Commission and stated a representative from Freedom Resource Center had been to the property and viewed the buildings. He felt it would be sufficient and gave the applicants ideas for handicap parking, layout for handicapped restrooms, etc. Bill believes they have a nice wedding venue to offer to families. They hosted a family wedding on the property utilizing the barn and a large outdoor tent. Approximately 300 people attended and Gottenborg confirmed that parking had not been a problem.

The chair asked if anyone else wanted to speak for or against the proposal.

Amanda Jelinek approached the Commission. She lives south of the applicants. She informed the Commission that she was the individual who called regarding the noise and that is her only concern. There are no trees to the south to act as a buffer. She would like to visit with the applicants more about the proposal and added that she speaks in support of the proposal.

Magnusson added that the south end of the barn does not have a barn door. The smaller door would help contain the noise if kept closed.

**On motion by Tom Jensen, seconded by Mark Klevgaard, and unanimously carried, the Planning Commission closed the public hearing.**

The Commissioners discussed adding a condition pertaining to the maximum occupancy and obtaining a Certificate of Occupancy from the Department of Labor. Signage was also discussed and clarified.

**The Findings of Fact and Order were addressed by the Planning Commissioners as they pertain to the requested permit. All the items can be addressed with conditions and none of them warranted further discussion.**

**On motion by Mark Klevgaard, seconded by Curt Stubstad, and unanimously carried, the Planning Commission approved Roger and Cheryl Gottenborg's request for an Interim Use Permit to allow the establishment of an event center/wedding venue on their property located in the NW Quarter, SW Quarter, Section 13, T140N, R45W (Cromwell Twp.), with the following conditions:**

- 1) Hours of operation: 11:00 a.m. to Midnight.**
- 2) Months of operation shall be May 15 thru October 30.**
- 3) All parking must be provided for onsite. Parking shall not be allowed on public road right-of-way. Applicant must provide a minimum of 150 parking spaces for the facility.**
- 4) Amplified music may be played indoors or outdoors during ceremonies. Other amplified music shall only be played indoors and must end by 12:00 midnight.**
- 5) Alcohol sales shall be provided by a licensed bar or vendor.**
- 6) Clay County must license all food preparation and/or food services operations.**
- 7) The applicant shall provide for security services at all events.**
- 8) All sanitary facilities shall meet Clay County SSTs requirements.**
- 9) The facility shall meet all applicable local/State/Federal regulations and/or requirements.**
- 10) Facility signage: One non-illuminated sign only of a maximum size of thirty-two (32) square feet is allowed to advertise the home occupation on site. Such sign shall meet the setbacks for structures for the zoning district within which the home occupation is located. Temporary signage is allowed at the time of each event.**
- 11) Applicant must provide documentation of maximum occupancy to the Clay County Planning Department. Should occupancy be 200 or greater, a Certificate of Occupancy obtained from the Minnesota Department of Labor and Industry shall be provided to the Clay County Planning Department.**

### **PROPERTY ISSUES IN BAKER**

Tim Thompson was present and Todd Thompson participated via telephone conferencing.

Magnusson recalled and played the drone video provided by Tim Thompson. He indicated where the trees had been removed. Property pin locations were identified as well as Wagner's property, the foundation hole, Wagner's mobile home and deck. Magnusson informed the Commission that buildings had been removed and the area had been cleaned up.

Magnusson handed out a survey he was provided from the adjacent property owners. The property is in the unincorporated community of Baker. If the lots are not platted, they are considered "outlots." The surveyor retraced the outlots and set pins that had been missing. Magnusson pointed out the southeast and southwest corner pins per the survey. If a line was drawn between the two, one can see where the mobile home currently sits. The mobile home appears to be located on

Wagner's property but the deck, propane tank and electric panel are not and do not meet the setback of 15 feet. The trees that were planted, have now been removed.

Originally, there was a house located on the property. Wagner downloaded a GIS map from the County website for property lines. The location of property lines compared to the aerial photos that sit behind them, depending upon where you are, can be good or very poor. When the house was taken down, the applicant filled the basement but did not want to set his new mobile home on the fill material so he re-located to the edge of the property. The location of the septic system and well are not certain.

Discussion arose relating to relocating the mobile home. There is more property Wagner could utilize that would meet the setbacks.

Jenny Mongeau inquired what instruction the Planning office had provided to Wagner. Magnusson shared he had requested an "after the fact" building permit application, but that it would not be approved because of the setback violation. He notified Wagner that he needed to remove the deck within 30 days, which is on October 12, and move the mobile home to meet the setback within 90 days, which is on December 11. If Wagner does not comply with those dates, Samarzja and Magnusson would make a recommendation for further action.

Attorney Dan Plambeck, of the Stefanson Law Firm, approached the Commission. He represents Mike Wagner. Plambeck implored that Wagner had no intention of encroaching on anyone's property and wants to apologize to the Thompson family. The mobile home is meant to be a temporary home for Wagner, although Plambeck was not certain how temporary. It is Wagner's hope to have dialogue with Thompsons and resolve the issues. Moreover, Plambeck said if the parties cannot work through the issues, then his client will do his best to comply with the deadlines in the letter from the Planning office. Wagner does not challenge the survey and recognizes the lines; however, he does not feel he is interfering with Thompson's use since the lot is vacant. Plambeck advised the parties communicate through their respective counsel.

Tim Thompson is the property owner to the south. He expressed that he has no intent of allowing Wagner to remain over the property line. A permit was not obtained, nor did Wagner communicate with him. Thompson is not interested in dialogue. He stated the future use of the property has nothing to do with Wagner not following the ordinance, obtaining a permit, or having the land surveyed. Thompson has retained an attorney. Moreover, he insists Wagner move his possessions immediately.

Todd Thompson spoke via telephone. He said the Sheriff advised him to obtain legal counsel. A document signed by a judge is needed before law enforcement can act on a situation. Thompson said the property is mowed, kept up and ready to build on should they choose but they cannot if the setbacks are not compliant. Additionally, Wagner removed soil from Thompson's property and Thompson insists the property be restored to its original state. Thompson is not willing to sell the lot to Wagner.

Jenny Samarzja advised the Commission that no action was necessary. The property will be inspected in October and again in December to confirm the setback compliance. If it remains non-compliant, a criminal citation would be issued if necessary.

## **OTHER BUSINESS**

### **DISCUSSION - WATER ORIENTED ACCESSORY STRUCTURES (“WOAS”) - GREG ANDERSON**

Magnusson introduced Greg Anderson. Anderson currently sits on the Board of Adjustment and is a realtor in the area. Water Oriented Accessory Structures (“WOAS”) were discussed at a recent Board of Adjustment meeting. Anderson will address possible language to incorporate into the County Ordinance.

Anderson apprised his background. He provided the Commission with excerpts from the Becker County and Otter Tail County Zoning Ordinances regarding water oriented structures, non-riparian lots, guest cottages or campers, rural agricultural lots, and holding tank exceptions.

The Commission discussed the possible zoning issues as well as variance requests. There has been an increase in the requests involving WOAS’s. Practical difficulties were also reviewed and clarified.

### **REPORT A CONCERN**

Jenny Mongeau informed the Commission that a new method to handle citizen complaints has been implemented into the Clay County website. A “Report a Concern” link appears on the upper right of the County website homepage. A citizen can document their complaint online. Thereafter, the complaint is forwarded to the appropriate department. If the department is unknown, Human Resources will address it. This will help document and track complaints.

### **Adjourn:**

**On motion by Mark Klevgaard, seconded by Tom Jensen, the meeting adjourned at 8:55 p.m.**

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Thomas Jensen, Planning Commission Secretary